

REMARKS:

In the above-referenced office action, the examiner indicated that claims 3, 6-8, 13 and 17-19 were allowed whereas claims 1, 2, 9-12 and 14-16 were rejected.

As the examiner can see, claims 1, 2, 10-12 and 14-16 have been cancelled. The amendment of the claims to exclude certain subject matter is made without prejudice and Applicant has no intention at this time to abandon that subject matter. Applicant hereby expressly reserve right to pursue the same or similar subject matter in a continuing application or a continuation-in-part application.

Regarding claim 9, it is noted that the examiner stated "the specification, while being enabling for the flax cultivar M5791 with seeds having greater than 70% linolenic acid...". In view of this, it is believed that the amendment of claim 9 to depend only on claim 6 is proper and overcomes the objection to claim 9 under 35 USC 112. It is noted that while applicant does not agree with the examiner's position and intends to pursue these or similar claims in a continuing or continuation-in-part application, this amendment is being made to further prosecution of the application.

Claims 6 and 13 have been amended to remove extra periods following the percentage sign (%).

Regarding the amendment to the specification, the page numbers of the tables, claims and abstract have been amended so that the tables appear before the claims. It is believed that this amendment has been done in accordance with USPTO practice. In the event that this is not the case, it is respectfully requested that the examiner contact the undersigned so that suitable corrected pages can be submitted.

It is believed that the above amendments have put the application in good order for allowance.

In view of the foregoing, further and more favorable consideration is respectfully requested.

Respectfully submitted

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Enc.(15)

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CERTIFICATION OF FACSIMILE TRANSMISSION

I hereby certify that this paper is being facsimile transmitted to the Patent And Trademark Office on the date shown below.

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DATE: September 10, 2004

Uses of Flax

Linseed Oil (High Linolenic Acid)	Adhesives, i.e. manufacture of hardboard and fibreboard Protective Coatings: paints, house paint primers, varnishes, lacquers, stains, alkyd resins, enamels, epoxidized oils Floor Covering: linoleum Oilcloth, tarpaulin and other coated fabrics Patent leather Industrial Chemicals: fatty acids, soap, glycerin Printing inks, grinding oils, newsprint, core oils, caulking compounds, waterproofing compounds, mastic cements, foundry binders, brake lining, hardboard, shoe polish, herbicide and pesticide carrier Antispalling and curing treatments for concrete Tempering oil, bonding oil, and highly conjugated oils for hardboards
Seed	Specialty Edible Products: <ul style="list-style-type: none">- cakes, muffins- bread products (whole seed or flour)- replacement for sesame seed in baking products- cooked and dry cereals
Seed & Oil	Health Food: <ul style="list-style-type: none">- source of linolenic acid- to make pills- inclusion in pharmaceutical mediator mutations
Linseed Meal	High protein animal feed Seed, oil, meal: Dairy and beef cattle, swine and poultry feed and also to increase levels of linolenic acid in food products, i.e. eggs, meat and milk Pet Foods: seed and meal Fish feed in fish culture: Seed and oil - source of linolenic acid required by growing fish, i.e. salmon

Table 1. Fatty Acid Composition of Major Seed Oils

	Fatty Acid Content %			
	Saturates	Oleic	Linoleic	Linolenic
Linseed Flax	9	20	13	58
Canola	6	58	26	10
Safflower	9	20	70	<1
Sunflower	11	20	69	-
Corn	13	25	61	1
Olive	14	77	8	1
Soybean	15	24	54	7
Peanut	18	48	34	-
Cottonseed	27	19	54	-

Source: Agricultural Handbook No. 8-4. Human Nutr. Inform. Serv., U.S. Dept. Agric., Washington, DC. 1979.

Table 2. Fatty Acid Composition of Linseed Flax and High Linolenic Flax (M 5791)

Fatty acid, % in oil	Linseed Flax	High Linolenic Flax
Palmitic	C16:0	5.4
Stearic	C18:0	3.1
Oleic	C18:1	17.1
Linoleic	C18:2	14.7
Linolenic	C18:3	59.6
Iodine value		196
		217

Table 3. Linolenic Acid Content of Canadian Flaxseed by Province - 1992-1999*

	Manitoba	Saskatchewan	Alberta	Mean
1992	59.1	58.7	55.7	58.8
1993	57.9	61.0	60.7	59.7
1994	58.6	60.5	56.9	59.6
1995	55.8	59.4	60.8	58.1
1996	57.8	59.3	59.8	58.7
1997	58.8	57.4	58.9	58.0
1998	57.2	56.6	56.9	56.8
1999	60.4	59.4	59.0	59.6
Mean	58.2	59.0	58.6	58.7

Source: Quality of Western Canadian flaxseed, Grain Research Laboratory, Canadian Grain Commission, Winnipeg, MB. Linolenic acid determined by gas chromatography of methyl esters of fatty acids according to International Organization for Standardization; Animal and vegetable fats and oils 1505508:1990E.

Table 4. Linolenic Acid Content of Four Widely Grown Canadian Flax Cultivars in Flax Cooperative Tests* conducted at Eight Locations in Manitoba and Saskatchewan, 1995-1999.

	Manitoba					Saskatchewan			Mean
	Morden	Portage la Prairie	Roseba nk	Brandon	Indian Head	Melfort	Saskatoo	Scott	
1995									
AC McDuff	52.5	53.8	53.5	49.0	57.2	56.2	54.9	56.2	54.2
CDC Normandy	54.0	55.7	55.8	52.8	60.2	56.8	56.5	58.7	56.3
Flanders	55.0	56.5	56.3	52.0	60.2	58.9	57.5	58.9	56.9
NorLin	53.8	55.4	54.5	53.1	60.0	56.7	56.5	58.9	56.1
Mean	53.8	55.4	55.0	51.7	59.4	57.1	56.3	58.2	55.9
1996									
AC McDuff	53.6	55.2	55.5	52.6	55.4	53.8	54.4	56.0	54.6
CDC Normandy	55.8	54.6	57.6	54.9	58.2	56.7	56.4	58.1	56.5
Flanders	57.3	58.3	58.0	54.3	57.8	56.2	56.8	558.7	57.2
NorLin	55.2	54.2	56.8	54.7	57.8	55.4	56.0	57.7	56.0
Mean	55.5	55.6	57.0	54.1	57.3	55.5	55.9	57.6	56.0
1997									
AC McDuff	53.3	55.4	56.0	52.2	49.7	53.1	52.1	50.6	52.8
CDC Normandy	53.0	55.0	58.0	52.1	52.9	51.6	55.1	54.3	54.0
Flanders	55.9	58.9	58.1	53.8	53.9	54.8	55.1	53.7	55.5
NorLin	52.9	56.8	57.7	53.1	51.9	52.5	55.4	53.9	54.3
Mean	53.8	56.5	57.4	52.8	52.1	53.0	54.4	53.1	54.1
1998									
AC McDuff	51.5	51.9	51.4	46.9	50.8	47.9	49.5	45.5	49.5
CDC Normandy	53.8	53.2	54.3	48.9	53.7	51.4	52.3	48.2	51.8
Flanders	52.6	54.3	54.6	49.7	53.5	52.7	53.0	47.8	52.3
NorLin	52.7	53.5	54.0	49.8	53.4	50.0	51.3	48.0	51.6
Mean	52.6	53.2	53.3	48.8	52.8	50.7	51.5	47.4	51.3

Table 4 (Continued)

	Manitoba				Saskatchewan			Mean
	Morden	Portage la Prairie	Roseba nk	Brandon	Indian Head	Melfort	Saskatoo n	
1999								
AC McDuff	57.1	58.8	59.2	58.4	59.8	53.4	51.6	52.0
CDC Normandy	59.9	59.0	60.0	58.2	60.1	53.5	56.1	55.5
Flanders	60.2	61.1	62.4	49.0	61.4	54.6	54.7	55.6
NorLin	59.4	59.0	59.8	58.8	59.4	53.3	55.4	54.9
Mean	59.1	59.6	60.3	58.6	60.2	53.7	54.4	54.5
Overall Mean	55.0	56.0	56.6	53.2	56.4	54.0	54.5	54.2

* Cooperative tests conducted by Prairie Registration Recommending Committee on Grain. Linolenic acid content determined by gas-liquid chromatography of the fatty acid esters using the method described by Daun et al., J. Amer. Oil Chemists' Society, 60, 1983.

Table 5. Linolenic Acid Content* of High Linolenic Flax (M 5791) in Replicated Trials in Manitoba, 1998 & 1999, in Comparison with Three Commercial Cultivars

	Morden	Burdick	Portage la Prairie
<u>1998</u>			
High Linolenic Flax	70.1		
AC Emerson	57.0		
Flanders	53.1		
NorLin	55.2		
<u>1999</u>			
<u>Test 1</u>			
High Linolenic Flax	70.9	71.9	72.7
AC Emerson	61.7	60.6	65.1
Flanders	60.4	60.6	62.5
NorLin	59.7	57.8	59.3
<u>Test 2</u>			
High Linolenic Flax	71.9	70.3	
AC Emerson	58.6	59.2	
Flanders	58.2	60.3	
NorLin	56.9	59.3	
<u>Test 3</u>			
High Linolenic Flax	72.0	71.3	
AC Emerson	60.5	61.6	
Flanders	60.0	60.9	
NorLin	58.6	58.2	

* Linolenic acid content determined by gas-liquid chromatography of the fatty acid esters using the method described by Daun et al., J. Amer. Oil Chemists' Society, 60, 1983.

Table 6. Linolenic Acid Content of High Linolenic Flax (M 5791) in Field Trials, 1998 & 1999

Location	Year	% Linolenic Content
Fisher Branch, MB	1998	72.7
	Field 1	
	1999	72.7
	Field 2	
		72.2
Erickson, MB	1998	72.9
	Field 1	
	1999	72.9
	Field 2	
		72.9
Gadsby, AB	1998	72.6
	Field 1	
	1999	72.6
	Field 2	
		73.1

- 22 -

CLAIMS

1. A flax seed that is the product of a plant line designated M5791 (American Tissue Culture Collection Deposit #PTA-5755), wherein the linolenic acid content of said flax seed is greater than 70%.

5 2. A flax plant designated M5791 (American Tissue Culture Collection Deposit # PTA-5755), wherein the linolenic acid content of said flax seed is greater than 70%.

10 3. Progeny of a flax plant designated M5791 (American Tissue Culture Collection Deposit # PTA-5755), wherein said progeny produce seeds having a linolenic acid content of greater than 70% of the total fatty acid content of said seed.

4. The progeny according to claim 3 wherein the linolenic acid content is between 70%-80%.

5. Seed from the flax plant of claim 2.

15 6. A method of producing a flax plant line comprising the steps of:
(a) crossing a plant of a flax plant line designated M5791 (American Tissue Culture Collection Deposit # PTA-5755), wherein the linolenic acid content of said flax seed is greater than 70%, or progeny thereof, with an agronomically elite flax plant; and

20 (b) selecting at least one descendant of said cross, said descendant producing seeds having a linolenic acid content of greater than 70% relative to the total fatty acid content of said seed.

7. The progeny according to claim 3 wherein the linolenic acid content is between 70%-75%.

8. The method according to claim 6 wherein the linolenic acid content is between 70-80%.

- 23 -

9. The method according to claim 6 wherein the linolenic acid content is between 70-75%.